

**REMARKS**

Claims 1-66 are pending.

**Rejections under 35. U.S.C. §103(a)**

Claims 1-66 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,230,318 (*Halstead et al.*) in view of U.S. Patent No. 6,598,166 (*Folmsbee*).

Applicants respectfully traverse these rejections for at least the following reasons.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

**Regarding the Cited References:**

*Halstead et al.* disclose an application program that is constructed from a collection of individual reusable tools that are arranged in a tree structure. When the application is initiated, a corresponding current configuration file is followed to construct the application from the various tools. This allows for changes and upgrades to be more easily implemented.

Note that *Halstead et al.* deliver the application as a set of tools and a current configuration file, and therefore the application is in a fully functional

1 condition. Furthermore, *Halstead et al.* are silent as to and therefore do not teach  
2 any encryption/decryption processes.

3 *Folmsbee* discloses a special microprocessor that successfully changes its  
4 operating logic to run scrambled software op-codes without requiring decryption  
5 keys and/or decryption capabilities. Here, the software's op-codes are scrambled  
6 based on an encryption key during compile by a first computer. The resulting  
7 scrambled software includes corresponding logic instructions. The corresponding  
8 logic instructions allow another computer having a special microprocessor with  
9 reconfigurable logic to then be properly reconfigured to run the scrambled  
10 software op-codes without ever having to first decrypt them.

11 Note that the scrambled software op-codes and related logic instructions are  
12 delivered in a fully functional condition to the special microprocessor, the  
13 scrambled software op-codes are not rearranged instead the special microprocessor  
14 logic is reconfigured, and the special microprocessor does not receive a decryption  
15 key. Indeed, one of the motivations for *Folmsbee's* invention is that some  
16 computers are located in countries to which certain cryptographic technology  
17 cannot be legally imported.

18  
19 **Regarding Claims 1-17:**

20 Independent Claim 1 is directed towards a method that includes providing  
21 an initial digital good to at least one computer. As recited, the initial digital good  
22 includes a plurality of selectively arranged parts in an initial configuration that is  
23 configured so as to not properly function with the computer. This is very different  
24 than the cited art. *Halstead et al.* teach that the application that is delivered is in a  
25 fully functional condition. Similarly, in *Folmsbee* the scrambled software op-

1 codes and related logic instructions are delivered in a fully functional condition for  
2 the special microprocessor. Therefore, neither *Halstead et al.* and/or *Folmsbee*,  
3 alone or in combination, disclose or reasonable suggest providing an initial digital  
4 good having a plurality of selectively arranged parts in an initial configuration that  
5 will not properly function with the computer as specifically recited in Claim 1.

6 The method of Claim 1 further includes, with the computer, receiving  
7 unique key data. This too not found in the cited art. *Halstead et al.* do not even  
8 mention or allude to encryption/decryption or key data. *Folmsbee* is solving the  
9 very problem of not wanting to send key data to the remote computer. That is why  
10 *Folmsbee* scrambles the op codes and rearranges the logic of the special  
11 microprocessor. Hence, it is clear that neither *Halstead et al.* and/or *Folmsbee*,  
12 alone or in combination, disclose or reasonable suggest receiving unique key data  
13 as specifically recited in Claim 1.

14 Moreover, the method in Claim 1 further recites converting the initial  
15 digital good into a modified digital good using the unique key data to selectively  
16 individualize the initial digital good for use with the computer, such that the  
17 plurality of selectively arranged parts in the modified digital good have been  
18 rearranged to have a substantially unique operative configuration that properly  
19 functions with the computer and is different than the initial configuration. This is  
20 also very different than that which is taught by the cited art. *Halstead et al.* does  
21 not mention key data and instead configures a set of tools based on a configuration  
22 file. *Folmsbee* is solving the very problem of not wanting to send key data to the  
23 remote computer. That is why *Folmsbee* not only teaches away from using key  
24 data, but also teaches that the scrambled software op-codes are not even rearranged  
25 by the computer. Instead, *Folmsbee* teaches that the special microprocessor logic

1 is reconfigured based on corresponding logic instructions. Therefore, it is clear  
2 that neither *Halstead et al.* and/or *Folmsbee*, alone or in combination, disclose or  
3 reasonable suggest converting the initial digital good into a modified digital good  
4 using the unique key data in the manner as specifically recited in Claim 1.

5 The Office Action has failed to establish a *prima facie* case of obviousness.  
6 First, there is no suggestion or motivation, either in the references themselves or in  
7 the knowledge generally available to one of ordinary skill in the art, to modify the  
8 reference or to combine reference teachings to provide the method as recited in  
9 Claim 1. Secondly, there is no reasonable expectation of success in combining the  
10 cited references to somehow end up with the method as recited in Claim 1.  
11 Finally, the references when combined clearly fail to teach or suggest all the  
12 limitations in Claim 1.

13 Thus, Claim 1 is patentable over *Halstead et al.* and/or *Folmsbee*, alone or  
14 in combination.

15 Consequently, with Claim 1 being so clearly patentable over the cited art  
16 and in condition for prompt allowance, so too are **Claims 2-17** which depend there  
17 from and recite further limitations.

18  
19 **Regarding Claims 18-26:**

20 Independent **Claim 18** is directed towards a computer-readable medium  
21 comprising computer-executable instructions for, with the at least one computer,  
22 receiving an initial digital good, wherein the initial digital good includes a plurality  
23 of selectively arranged parts in an initial configuration and the initial digital good  
24 is configured as to not properly function with the computer. This is very different  
25 than the cited art also. *Halstead et al.* teach that the application that is delivered is

1 in a fully functional condition and *Folmsbee* teaches that the scrambled software  
2 op-codes and related logic instructions are delivered in a fully functional condition  
3 for the special microprocessor. As such, neither *Halstead et al.* and/or *Folmsbee*,  
4 alone or in combination, disclose or reasonable suggest providing receiving an  
5 initial digital good that includes a plurality of selectively arranged parts in an  
6 initial configuration configured so as to not properly function with the computer as  
7 specifically recited in Claim 18.

8 Claim 18 also specifies receiving unique key data. This is not found in the  
9 cited art. *Halstead et al.* do not even mention or allude to encryption/decryption or  
10 key data and *Folmsbee* is dedicated to not sending or otherwise requiring the  
11 computer to have or use key data. Again, that is why *Folmsbee* scrambles the op  
12 codes and rearranges the logic of the special microprocessor. Hence, it is clear that  
13 neither *Halstead et al.* and/or *Folmsbee*, alone or in combination, disclose or  
14 reasonable suggest receiving unique key data as specifically recited in Claim 18.

15 Claim 18 further specifies converting the initial digital good into a modified  
16 digital good using the unique key data to selectively individualize the initial digital  
17 good for use with the at least one computer, such that the plurality of selectively  
18 arranged parts in the modified digital good are rearranged to have a substantially  
19 unique operative configuration that properly functions with the at least one  
20 computer and is different than the initial configuration. This is completely different  
21 than that which is taught by the cited art. Recall that *Halstead et al.* do not  
22 mention key data. Instead *Halstead et al.* configure a set of tools based on a  
23 configuration file. Since *Folmsbee* is solving the very problem of not wanting to  
24 send key data to the remote computer, *Folmsbee* clearly teaches away from using  
25 key data in the remote computer. *Folmsbee* teaches that logic is reconfigured tin

1 the remote computer based on certain instructions such that the scrambled software  
2 op-codes are functional. Consequently, neither *Halstead et al.* and/or *Folmsbee*,  
3 alone or in combination, disclose or reasonable suggest converting the initial  
4 digital good into a modified digital good using the unique key data in the manner  
5 as specifically recited in Claim 18.

6 Once again, the Office Action has failed to establish a *prima facie* case of  
7 obviousness. First, there is no suggestion or motivation, either in the references  
8 themselves or in the knowledge generally available to one of ordinary skill in the  
9 art, to modify the reference or to combine reference teachings to provide the  
10 computer-readable medium as recited in Claim 18. Secondly, there is no  
11 reasonable expectation of success in combining the cited references to somehow  
12 end up with the clearly different steps as recited in Claim 18. Finally, the  
13 references when combined clearly fail to teach or suggest all the limitations in  
14 Claim 18.

15 Thus, Claim 18 is patentable over *Halstead et al.* and/or *Folmsbee*, alone or  
16 in combination.

17 Consequently, with Claim 18 being so clearly patentable over the cited art  
18 and in condition for prompt allowance, so too are Claims 19-26 which depend  
19 there from and recite further limitations.

20  
21 **Regarding Claims 27-33:**

22 Independent Claim 27 is directed towards a computer-readable medium  
23 comprising computer-executable instructions for receiving unique identifier data  
24 associated with at least one computer. Such is not even mentioned in the cited art.  
25 *Halstead et al.* do not mention or require any unique identifier data associated with

1 a computer. Similarly, *Folmsbee* does not mention or require any unique identifier  
2 data such as this. Therefore, neither *Halstead et al.* and/or *Folmsbee*, alone or in  
3 combination, disclose or reasonable suggest this limitation as specifically recited in  
4 Claim 27.

5 Claim 27 further states generating unique key data based on at least the  
6 unique identifier data. Since *Halstead et al.* do not mention or require any unique  
7 identifier data associated with a computer and *Folmsbee* does not mention or  
8 require any unique identifier data, neither of these references then go on to  
9 somehow generate unique key data as recited in Claim 27.

10 Claim 27 also states receiving at least a portion of an initial digital good  
11 having a plurality of selectively arranged parts in an initial configuration,  
12 converting the at least a portion using the unique key data to selectively  
13 individualize the portion, such that a modified portion of the digital good is  
14 produced having the plurality of parts rearranged in a different configuration than  
15 the initial configuration. This is also unlike the cited references. As described  
16 above neither *Halstead et al.* nor *Folmsbee* utilize unique key data in this manner.  
17 *Halstead et al.* is silent with regard to encryption/decryption. While *Folmsbee*  
18 uses an encryption key to scramble op codes, the remote computer does not  
19 unscramble the op codes with a decryption key. In fact, *Folmsbee* does not want  
20 the remote computer to need such a key. So, instead, *Folmsbee* provides  
21 instructions to the remote computer which cause the special microprocessor therein  
22 to reconfigure its logic in a manner that will then allow the scramble op codes to  
23 function properly. Thus, neither *Halstead et al.* and/or *Folmsbee*, alone or in  
24 combination, disclose or reasonable suggest using unique key data as specifically  
25 recited in Claim 27.

1 Claim 27 further states, providing at least the modified portion of the digital  
2 good and at least a portion of the unique key data to the at least one computer. As  
3 described above, the cited art fails to create such a modified portion of such a  
4 digital good and/or such unique key data. Thus, neither *Halstead et al.* and/or  
5 *Folmsbee*, alone or in combination, disclose or reasonable suggest this step as  
6 specifically recited in Claim 27.

7 The Office Action has failed to establish a *prima facie* case of obviousness.  
8 First, there is no suggestion or motivation, either in the references themselves or in  
9 the knowledge generally available to one of ordinary skill in the art, to modify the  
10 reference or to combine reference teachings to provide the recited steps and  
11 limitations as recited in Claim 27. Secondly, there is no reasonable expectation of  
12 success in combining the cited references to somehow end up with the recited  
13 limitations in Claim 27. Finally, the references when combined clearly fail to  
14 teach or suggest all the limitations in Claim 27.

15 Thus, Claim 27 is patentable over *Halstead et al.* and/or *Folmsbee*, alone or  
16 in combination.

17 As such, with Claim 27 being so clearly patentable over the cited art and in  
18 condition for prompt allowance, so too are Claims 28-33 which depend there from  
19 and recite further limitations.

20  
21 **Regarding Claims 34-42:**

22 Independent Claim 34 is drawn to an apparatus for use in a host computer.  
23 The recited apparatus includes an individualizer that is configured to receive  
24 unique key data. This is completely different than that which is taught by the cited  
25 art. Recall that *Halstead et al.* do not mention key data and *Folmsbee* teaches



1 away from transferring any such key data between computers. Consequently,  
2 neither *Halstead et al.* and/or *Folmsbee*, alone or in combination, disclose or  
3 reasonable suggest an individualizer and unique key data as specifically recited in  
4 Claim 34.

5 Claim 34 further states that the individualizer is also configured to receive  
6 at least a portion of an initial digital good that includes a plurality of selectively  
7 arranged parts in an initial configuration, and produce at least a portion of a  
8 modified digital good using the unique key data to selectively individualize the  
9 initial digital good for use with the host computer, and that the plurality of  
10 selectively arranged parts in the modified digital good are rearranged to be  
11 operatively different in configuration than the initial configuration of the digital  
12 good. This is also much different than that which is taught by the cited art.  
13 *Halstead et al.* teach that the set of tools are configured according to configuration  
14 file. *Halstead et al.* fail to disclose or suggest that unique key data can be used to  
15 selectively individualize the initial digital good for use with the host computer.  
16 The configuration file in *Halstead et al.* only specifies how the tools should be set-  
17 up based on the latest updates. *Folmsbee* also does not use unique key data in the  
18 host computer as that is exactly what he is trying to avoid having to do. Moreover,  
19 *Folmsbee* teaches that it is the logic in the special microprocessor that is  
20 reconfigured in the host computer and not the scrambled op codes. Further, the  
21 logic is not reconfigured using unique key data, but rather in accord with the  
22 instructions received with the scrambled op codes. Thus, neither *Halstead et al.*  
23 and/or *Folmsbee*, alone or in combination, disclose or reasonable suggest  
24 converting the initial digital good into a modified digital good using the unique key  
25 data in the manner as specifically recited in Claim 34.

1 Here again, the Office Action has failed to establish a *prima facie* case of  
2 obviousness. First, there is no suggestion or motivation, either in the references  
3 themselves or in the knowledge generally available to one of ordinary skill in the  
4 art, to modify the reference or to combine reference teachings to provide the  
5 claimed individualizer of Claim 34. Secondly, there is no reasonable expectation  
6 of success in combining the cited references to somehow end up with the very  
7 different apparatus as recited in Claim 34. Finally, the references when combined  
8 clearly fail to teach or suggest all the limitations in Claim 34.

9 Thus, Claim 34 is patentable over *Halstead et al.* and/or *Folmsbee*, alone or  
10 in combination.

11 With Claim 34 being so clearly patentable over the cited art and in  
12 condition for prompt allowance, so too are Claims 35-42 which depend there from  
13 and recite further limitations.

14  
15 **Regarding Claims 43-49:**

16 Independent Claim 43 is directed towards an apparatus for use in a source  
17 computer. Here, the recited apparatus includes a key generator configured to  
18 receive a unique identifier data from a destination computer and generate unique  
19 key data based on the received unique identifier data associated with the  
20 destination computer. The cited art is again very different. *Halstead et al.* do not  
21 mention or require any unique identifier data associated with a destination  
22 computer. Also, *Halstead et al.* do not even mention generating such key data.  
23 *Folmsbee* does not mention or require any unique identifier data such as this.  
24 Indeed the encryption key that is used to scramble op codes in *Folmsbee* is  
25 specifically not related to the destination computer, since it is the goal of *Folmsbee*

1 to avoid having to provide a decryption key to the destination computer.  
2 Furthermore, *Folmsbee* fails to even suggest that the resulting scrambled op codes  
3 are scrambled in some specific manner for a particular destination computer.  
4 Therefore, neither *Halstead et al.* and/or *Folmsbee*, alone or in combination,  
5 disclose or reasonable suggest this limitation as specifically recited in Claim 43.

6 Claim 43 further states that the apparatus includes an individualizer  
7 configured to receive the unique key data and at least a portion of an initial digital  
8 good having a plurality of selectively arranged parts in an initial configuration and  
9 output at least a portion of a modified digital good using the unique key data to  
10 selectively individualize the initial digital good, such that in the modified digital  
11 good the plurality of selectively arranged parts have been rearranged to have an  
12 operatively different configuration than the initial configuration. This too is  
13 different than that which is taught by the cited art. *Halstead et al.* do not mention  
14 key data and do not therefore use it in this manner. While *Folmsbee* use an  
15 encryption key to scramble op codes the key is not unique in the way that this  
16 generated unique key data is as recited in this claim (see previous paragraph).  
17 Further, *Folmsbee* is scrambling op codes and generating corresponding  
18 instructions for reconfiguring the logic in a special microprocessor. That is not  
19 what is being done here. Thus, neither *Halstead et al.* and/or *Folmsbee*, alone or  
20 in combination, disclose or reasonable suggest converting the initial digital good  
21 into a modified digital good using the unique key data in the manner as specifically  
22 recited in Claim 43.

23 Once again, the Office Action has failed to establish a *prima facie* case of  
24 obviousness. First, there is no suggestion or motivation, either in the references  
25 themselves or in the knowledge generally available to one of ordinary skill in the

1 art, to modify the reference or to combine reference teachings to provide the  
2 claimed apparatus for use in a source as in Claim 43. Secondly, there is no  
3 reasonable expectation of success in combining the cited references to somehow  
4 end up with the novel apparatus as recited in Claim 43. Finally, the references  
5 when combined clearly fail to teach or suggest all the limitations in Claim 43.

6 Thus, Claim 43 is patentable over *Halstead et al.* and/or *Folmsbee*, alone or  
7 in combination.

8 With Claim 43 being so clearly patentable over the cited art and in  
9 condition for prompt allowance, so too are Claims 44-49 which depend there from  
10 and recite further limitations.

11  
12 **Regarding Claims 50-66:**

13 Independent Claim 50 is drawn to a system that includes an identifier  
14 configured to output unique identifier data associated with a computer. The cited  
15 art is again very different. *Halstead et al.* do not mention or require outputting or  
16 otherwise using any unique identifier data associated with a computer. Therefore,  
17 neither *Halstead et al.* and/or *Folmsbee*, alone or in combination, disclose or  
18 reasonable suggest this limitation as specifically recited in Claim 50.

19 Claim 50 also recites that the system includes a key generator coupled to  
20 receive the unique identifier data and configured to generate at least one unique  
21 key data based on the received unique identifier data. The cited art is very  
22 different since the references fail to use unique identifier data. *Halstead et al.* do  
23 not even mention key data let alone generating such unique key data based on  
24 unique identifier data. *Folmsbee* also fails to even mention generating such  
25 unique key data or such unique identifier data. Instead *Folmsbee* just uses a

1 conventional encryption key to scramble op codes. Therefore, neither *Halstead et*  
2 *al.* and/or *Folmsbee*, alone or in combination, disclose or reasonable suggest this  
3 limitation as specifically recited in Claim 50.

4 Claim 50 further specifies that the individualizer is configured to receive  
5 the unique key data and at least a portion of an initial digital good that includes a  
6 plurality of selectively arranged parts in an initial configuration, and output at least  
7 a portion of a modified digital good using the unique key data to selectively  
8 individualize the initial digital good, such that the plurality of selectively arranged  
9 parts in the modified digital good have been rearranged to be operatively different  
10 in configuration than the initial configuration of the digital good. This too is  
11 different than that which is taught by the cited art. *Halstead et al.* do not mention  
12 key data and do not therefore use it in this manner. While *Folmsbee* use an  
13 encryption key to scramble op codes the key is not unique in the way that this  
14 generated unique key data is as recited in this claim (see previous two paragraphs).  
15 Further, *Folmsbee* is scrambling op codes and generating corresponding  
16 instructions for reconfiguring the logic in a special microprocessor. That is not  
17 what is being done here. As such, neither *Halstead et al.* and/or *Folmsbee*, alone  
18 or in combination, disclose or reasonable suggest converting the initial digital good  
19 into a modified digital good using the unique key data in the manner as specifically  
20 recited in Claim 50.

21 The Office Action has therefore failed to establish a *prima facie* case of  
22 obviousness. First, there is no suggestion or motivation, either in the references  
23 themselves or in the knowledge generally available to one of ordinary skill in the  
24 art, to modify the reference or to combine reference teachings to provide the  
25 claimed system as in Claim 50. Secondly, there is no reasonable expectation of

1 success in combining the cited references to somehow end up with the novel  
2 system as recited in Claim 50. Finally, the references when combined clearly fail  
3 to teach or suggest all the limitations in Claim 50.

4 Thus, Claim 50 is patentable over *Halstead et al.* and/or *Folmsbee*, alone or  
5 in combination.

6 With Claim 50 being so clearly patentable over the cited art and in  
7 condition for prompt allowance, so too are Claims 51-66 which depend there from  
8 and recite further limitations.

9  
10 **Conclusion**

11 For at least these substantial reasons, it is respectfully requested that all of  
12 the rejections be reconsidered and withdrawn. The pending claims have been  
13 placed in condition for allowance and are clearly patentable over the cited art and  
14 should therefore be allowed.

15  
16  
17 Date: 4/16/2004

Respectfully Submitted,

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